

IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE:

PETITION FOR EXEMPTION OF  
CERTAIN SERVICES

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I.R.A. DOCKET ROOM

DOCKET NO. 03-00391

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**CONSUMER ADVOCATE AND PROTECTION DIVISION'S FIRST SET OF  
DISCOVERY REQUESTS REGARDING PRIMARY RATE ISDN SERVICE  
PROPOUNDED TO CITIZENS TELECOMMUNICATIONS COMPANY OF  
TENNESSEE, LLC**

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Comes now Paul G. Summers, Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to Tenn. Code Ann. § 65-4-118(c)(2)(A) and the Tennessee Rules of Civil Procedure, and hereby propounds the following Discovery Requests to:

Citizens Telecommunications Company of Tennessee, LLC  
c/o Guilford F. Thornton, Jr., Esq.  
424 Church Street, Suite 2800  
Nashville, Tennessee 37219-2386

These Interrogatories and Requests for Production are hereby served upon Citizens Telecommunications Company of Tennessee, LLC ("Citizens" or "Company"), pursuant to Rules 26, 33 and 34 of the Tennessee Rules of Civil Procedure and Tenn. Comp. R. & Reg 1220-1-2-.11. The Consumer Advocate requests that full and complete responses be provided pursuant to the Tennessee Rules of Civil Procedure. The responses are to be produced at the Office of the Tennessee Attorney General and Reporter, Consumer Advocate and Protection Division, 425 Fifth Avenue North, Nashville, Tennessee 37243, c/o Joe Shirley, on or before August 16, 2004.

## **PRELIMINARY MATTERS AND DEFINITIONS**

Each Discovery Request calls for all knowledge, information and material available to the Company, as a party, whether it be the Company's, in particular, or knowledge, information or material possessed or available to the Company's attorney or other representative.

These Discovery Requests are to be considered continuing in nature, and are to be supplemented from time to time as information is received by the Company which would make a prior response inaccurate, incomplete, or incorrect. In addition, the Consumer Advocate requests that the Company supplement responses hereto with respect to any question directly addressed to the identity and location of persons having knowledge of discoverable matters, and the identity of each person expected to be called as an expert at hearing, the subject matter on which the expert is expected to testify, and the substance of the expert's testimony.

These Discovery Requests are to be interpreted broadly to fulfill the benefit of full discovery. To assist the Company in providing full and complete discovery, the Consumer Advocate provides the following definitional guidelines for purposes of responding to these Interrogatories and Requests for Production.

The term "communication" as used herein, means any transmission of information by oral, graphic, pictorial or otherwise perceptible means, including but not limited to personal conversations, telephone conversations, letters, memoranda, telegrams, electronic mail, newsletters, recorded or handwritten messages, or otherwise.

The term "document" as used herein, means any medium upon which intelligence or information can be recorded or retrieved, such as any written, printed, typed, drawn, filmed, taped, or recorded medium in any manner, however produced or reproduced, including but not

limited to any writing, drawing, graph, chart, form, photograph, tape recording, computer disk or record, or other data compilation in any form without limitation. Produce the original and each copy, regardless of origin or location, of any book, pamphlet, periodical, letter, note, report, memorandum (including memoranda, note or report of a meeting or conversation), spreadsheet, photograph, videotape, audio tape, computer disk, e-mail, or any other written, typed, reported, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, which is in your possession, custody or control or which was, but is no longer, in your possession, custody, or control. If any such document or thing was, but no longer is, in your possession or control, state what disposition was made of it and when. If a document exists in different versions, including any dissimilar copies (such as a duplicate with handwritten notes on one copy), each version shall be treated as a different document and each must be identified and produced.

The term "you" and "your" shall mean and include: Citizens Telecommunications Company of Tennessee, LLC and all employees, agents and representatives thereof.

The term "person" or "persons" as used herein refers to any natural person, corporation, firm, company, sole proprietorship, partnership, business, unincorporated association, or other entity of any sort whatsoever. Where a company or organization is the party being served, all responses must include the company's response. Moreover, the company's designated person for responding must assure that the company provides complete answers. *A complete answer must provide a response which includes all matters known or reasonably available to the company.*

The term "identity" and "identify" as used herein, with respect to any person, means to provide their name, current business address, current business telephone number, and the

occupation or job title of that person; with respect to an entity, those terms that mean to provide the name by which said entity is commonly known, the current address of its principal place of business, and the nature of business currently conducted by that entity; with respect to any document, those terms that mean to provide the date of the document, the nature of the document, and the title (if any) of the document.

The terms "and" and "or" shall be construed conjunctively or disjunctively as necessary to include any information that might otherwise be construed outside the scope of these requests.

If you produce documents in response to these Interrogatories, produce the original of each document or, in the alternative, identify the location of the original document. If the "original" document is itself a copy, that copy should be produced as the original.

If any objections are raised on the basis of privilege or immunity, include in your response a complete explanation concerning the privilege asserted

If you contend that you are entitled to refuse to fully answer any of this discovery, state the exact legal basis for each such refusal.

If any of the Interrogatories or Requests for Production is not answered on the basis of privilege or immunity, include in your response to each such Interrogatory or Request for Production a written statement evidencing:

- (a) the nature of the communication;
- (b) the date of the communication;
- (c) the identity of the persons present at such communication; and
- (d) a brief description of the communication sufficient to allow the Tennessee Regulatory Authority ("TRA") to rule on a motion to compel.

If, for any reason, you are unable to answer a Discovery Request fully, submit as much information as is available and explain why your answer is incomplete. If precise information cannot be supplied, submit 1) your best estimate, so identified, and your basis for the estimate and 2) such information available to you as comes closest to providing the information requested. If you have reason to believe that other sources of more complete and accurate information exist, identify those sources.

If any information requested is not furnished as requested, state where and how the information may be obtained or extracted, the person or persons having knowledge of the procedure and the person instructing that the information be excluded.

### **FIRST DISCOVERY REQUESTS**

#### **INTERROGATORIES**

Consistent with the preceding definitions and preliminary matters, answer under oath the following specific Interrogatories:

#### **Interrogatory No. 1**

Identify each expert witness the Company intends to present in this docket and, for each, state:

- a) the subject or subjects upon which the expert will testify;
- b) the basis for your assertion that the witness is qualified as an expert including, but not limited to, a current curriculum vitae;
- c) all tests, studies, measurements, experiments, or other analysis or actions performed or observed by the expert relating to the expert's testimony;
- d) all opinions that the expert will present in this docket and the basis for each

opinion; and

- e) all facts of which you or the expert are aware that support those opinions.

**Response:**

**Interrogatory No. 2**

The *Petition for Exemption of Certain Services* states on page 3: “Within the context of this vigorously competitive environment, Tenn. Code Ann. § 65-5-208(b) requires the Authority to exempt these services from certain regulatory requirements contained in Tenn. Code Ann. Title 65, Chapter 5, Part II.” Set forth in detail all facts upon which the Company relies to support the proposition that there is a vigorously competitive environment for Primary Rate ISDN service in Tennessee.

**Response:**

**Interrogatory No. 3**

The *Petition for Exemption of Certain Services* states on page 3: “Within the context of this vigorously competitive environment, Tenn. Code Ann. § 65-5-208(b) requires the Authority to exempt these services from certain regulatory requirements contained in Tenn. Code Ann. Title 65, Chapter 5, Part II.” Identify each and every “certain regulatory requirement” from which the Company seeks an exemption for Primary Rate ISDN service.

**Response:**

**Interrogatory No. 4**

Describe in detail how the proposed exemption of Primary Rate ISDN service from certain regulatory requirements would be implemented, including, but not limited to, the effect or potential effect of the exemption on: (a) interconnection and resale agreements; (b) contract service arrangements; (c) remaining, un-exempted federal and state statutory and regulatory requirements affecting Primary Rate ISDN service; and (d) the Company's pricing, tariffing, and provisioning of Primary Rate ISDN service in the post-exemption environment.

**Response:**

**Interrogatory No. 5**

The *Petition for Exemption of Certain Services* states on page 2 that "many telecommunications service providers offer PRI ISDN service". Identify the many telecommunications service providers that offer Primary Rate ISDN service that compete with the Company's Primary Rate ISDN service offerings in Tennessee.

**Response:**

**Interrogatory No. 6**

The *Petition for Exemption of Certain Services* states on page 2 that "the price for this [Primary Rate ISDN] service is effectively regulated by substantial competitive activity in Tennessee." Set forth in detail all facts upon which the Company relies to support the

proposition that the price for Primary Rate ISDN service is effectively regulated by substantial competitive activity in Tennessee.

**Response:**

**Interrogatory No. 7**

Identify each and every Primary Rate ISDN service tariff offering that would be affected by the exemption from regulation if the *Petition for Exemption of Certain Services* is approved as filed. In your response, include a description of the service and a reference to the associated tariff section number(s) in the Company's tariff(s).

**Response:**

**Interrogatory No. 8**

For each Primary Rate ISDN service identified in response to Interrogatory No. 7, set forth the price of service per the Company's tariff as of the following dates, as applicable: (1) January 1, 1999; (2) June 30, 1999; (3) January 1, 2000; (4) June 30, 2000; (5) January 1, 2001; (6) June 30, 2001; (7) January 1, 2002; (8) June 30, 2002; (9) January 1, 2003; (10) June 30, 2003; (11) January 1, 2004; and (12) June 30, 2004.

**Response:**



**Interrogatory No. 9**

For each Primary Rate ISDN service identified in response to Interrogatory No. 7, set forth the quantity of service provisioned to Tennessee customers pursuant to the Company's tariff as of the following dates, as applicable: (1) January 1, 1999; (2) June 30, 1999; (3) January 1, 2000; (4) June 30, 2000; (5) January 1, 2001; (6) June 30, 2001; (7) January 1, 2002; (8) June 30, 2002; (9) January 1, 2003; (10) June 30, 2003; (11) January 1, 2004; and (12) June 30, 2004.

**Response:**

**Interrogatory No. 10**

Since January 1, 1999, has the Company ever reduced the price of any Primary Rate ISDN service offering in response to a competitive offering of such service (or service substitute) by a competing company or person? If so, provide a summary of each such rate reduction, including a description of the competitive offering that prompted the rate reduction.

**Response:**

**Interrogatory No. 11**

The *Petition for Exemption of Certain Services* states on page 3 that "Tennessee consumers have great leverage when shopping for these services." Set forth in detail all facts

upon which the Company relies to support the proposition that Tennessee consumers have great leverage when shopping for Primary Rate ISDN service.

**Response:**

**Interrogatory No. 12**

The *Petition for Exemption of Certain Services* states on page 3 that “Business customers desiring these services can look to the marketplace to find the best product within a price range”. Set forth in detail all facts upon which the Company relies to support the proposition that business customers desiring Primary Rate ISDN service can look to the marketplace to find the best product within a price range.

**Response:**

**Interrogatory No. 13**

The *Petition for Exemption of Certain Services* states on page 3 that “Business customers desiring these services . . . can take their business to a competing product or provider should they become dissatisfied.” Set forth in detail all facts upon which the Company relies to support the proposition that business customers desiring Primary Rate ISDN service can take their business to a competing product or provider should they become dissatisfied.

**Response:**

**Interrogatory No. 14**

The *Petition for Exemption of Certain Services* states on page 3 that “Business customers desiring these services . . . can take their business to a competing product or provider should they become dissatisfied.” Identify the competing product(s) that the Company’s business customers desiring Primary Rate ISDN service can take their business to should they become dissatisfied.

**Response:**

**Interrogatory No. 15**

The *Petition for Exemption of Certain Services* states on page 3 that “Business customers desiring these services . . . can take their business to a competing product or provider should they become dissatisfied.” Identify the competing provider(s) that the Company’s business customers desiring Primary Rate ISDN service can take their business to should they become dissatisfied.

**Response:**

**Interrogatory No. 16**

The *Petition for Exemption of Certain Services* states on page 3 that “Business customers desiring these services can look to the marketplace to find the best product within a price range”. Define and describe in detail the “marketplace” where the Company’s business customers

desiring Primary Rate ISDN service can look to in order to find the best product within a price range.

**Response:**

**Interrogatory No. 17**

Provide the Company's definition of the Primary Rate ISDN service market in Tennessee.

**Response:**

**Interrogatory No. 18**

Provide the Company's market share (or best estimate of market share) of the Primary Rate ISDN service market defined in Interrogatory No. 17.

**Response:**

**Interrogatory No. 19**

Set forth and describe all factors, and facts in support thereof, demonstrating that competition would be an effective regulator of price for Primary Rate ISDN service in Tennessee.

**Response:**

**Interrogatory No. 20**

If the *Petition for Exemption of Certain Services* is granted as filed, will the Company increase the current rate for any Primary Rate ISDN service offering within the next year subsequent to the granting of the exemption?

**Response:**

**Interrogatory No. 21**

If your response to Interrogatory No. 20 is anything other than an unqualified “no,” set forth and explain in detail all reasons why the Company would increase the price of any of its Primary Rate ISDN service offerings within the next year subsequent to the granting of the exemption.

**Response:**

**Interrogatory No. 22**

Provide a list of all communications that the Company has had regarding the exemption of Primary Rate ISDN service from regulatory requirements, including, but not confined to: communications between or among the Company and other persons or companies and communications between or among the Company and federal and state regulatory officials, policymakers, legislators, or other public officials.

**Response:**

## REQUESTS FOR PRODUCTION

Consistent with the preceding definitions and preliminary matters, produce the following communications and documents:

### **Request for Production No. 1**

Identify and produce a copy of all communications and documents pertaining to or referring to the subject of exemption of Primary Rate ISDN service from regulatory requirements. Consistent with the preceding preliminary matters, if the Company is aware of or in possession of such communications or documents but claims that it is not required to respond or produce on the basis of privilege, immunity, or otherwise, provide a complete explanation concerning the basis for any such nonresponse or nonproduction, including a written statement evidencing sufficient information to allow the TRA to rule on any motion to compel.

**Response:**

### **Request for Production No. 2**

Identify and produce a copy of all communications and documents pertaining or referring to any study, survey, analysis, review, summary, comment or report of any kind regarding the effect or potential effect of the exemption of Primary Rate ISDN service from regulatory requirements in Tennessee. Consistent with the preceding preliminary matters, if the Company is aware of or in possession of such communications or documents but claims that it is not required to respond or produce on the basis of privilege, immunity, or otherwise, provide a complete explanation concerning the basis for any such nonresponse or nonproduction, including a written

statement evidencing sufficient information to allow the TRA to rule on any motion to compel.

**Response:**

**Request for Production No. 3**

Identify and produce a copy of all communications and documents pertaining or referring to any study, survey, analysis, review, summary, comment or report of any kind regarding the competitive environment or state of competition in the Primary Rate ISDN service market in Tennessee. Consistent with the preceding preliminary matters, if the Company is aware of or in possession of such communications or documents but claims that it is not required to respond or produce on the basis of privilege, immunity, or otherwise, provide a complete explanation concerning the basis for any such nonresponse or nonproduction, including a written statement evidencing sufficient information to allow the TRA to rule on any motion to compel.

**Response:**

**Request for Production No. 4**

Identify and produce a copy of all communications and documents pertaining or referring to any study, survey, analysis, review, summary, comment or report of any kind regarding the Company's market share and/or competitive position affecting the Primary Rate ISDN service market in Tennessee. Consistent with the preceding preliminary matters, if the Company is aware of or in possession of such communications or documents but claims that it is not required

to respond or produce on the basis of privilege, immunity, or otherwise, provide a complete explanation concerning the basis for any such nonresponse or nonproduction, including a written statement evidencing sufficient information to allow the TRA to rule on any motion to compel.

**Response:**

**Request for Production No. 5**

Identify and produce a copy of all communications and documents that discuss, review, analyze, mention or refer to the subject of whether existing and/or potential competition is an effective regulator of price for Primary Rate ISDN service in Tennessee. Consistent with the preceding preliminary matters, if the Company is aware of or in possession of such communications or documents but claims that it is not required to respond or produce on the basis of privilege, immunity, or otherwise, provide a complete explanation concerning the basis for any such nonresponse or nonproduction, including a written statement evidencing sufficient information to allow the TRA to rule on any motion to compel.

**Response:**

**Request for Production No. 6**

Identify and produce a copy of any and all communications and documents reviewed to prepare your responses to these Interrogatories and Requests for Production. Consistent with the preceding preliminary matters, if the Company is aware of or in possession of such



communications or documents but claims that it is not required to respond or produce on the basis of privilege, immunity, or otherwise, provide a complete explanation concerning the basis for any such nonresponse or nonproduction, including a written statement evidencing sufficient information to allow the TRA to rule on any motion to compel.

**Response:**

**OATH**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, on behalf of Citizens Telecommunications Company of Tennessee, LLC being first duly sworn according to law, make oath that the preceding answers and responses to the Interrogatories submitted by the Consumer Advocate and Protection Division of the Office of the Attorney General are true, accurate and correct to the best of my knowledge, information and belief.

CITIZENS TELECOMMUNICATIONS  
COMPANY OF TENNESSEE, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

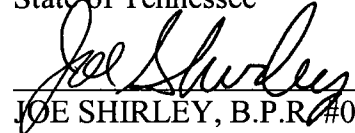
Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

RESPECTFULLY SUBMITTED,

PAUL G. SUMMERS, B.P.R. #6285  
Attorney General  
State of Tennessee

  
JOE SHIRLEY, B.P.R. #022287  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 532-2590

Dated: August 2, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via facsimile and first-class U.S. Mail, postage prepaid, on August 2, 2004, upon:

Joelle Phillips, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Suite 2101  
Nashville, Tennessee 37201-3300  
Facsimile: 615-214-7406

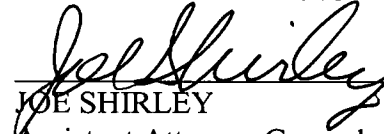
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JOE SHIRLEY  
Assistant Attorney General

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